

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this action for wrongful death under state law. The motion is granted. The issue is whether subject matter exists in this case.

Plaintiff alleges that Major Hunter, III, died on October 14, 2012, as the result of a car accident in the City of St. Louis. She says that a pothole caused his car to go “airborne and result[ed] in his death after hitting it.” She seeks monetary damages.

Under Rule 12(h)(3) of the Federal Rules of Civil Procedure, the Court is required to review each case to determine whether subject matter exists, and the Court is required to dismiss at any time if it determines that subject matter jurisdiction is lacking.

This is a state law claim, so federal question jurisdiction does not exist under 28 U.S.C. § 1331. Therefore, for plaintiff to bring this claim in federal court, diversity jurisdiction must exist under 28 U.S.C. § 1332.

For diversity jurisdiction to exist, plaintiff and defendant must be “citizens of different States.” 28 U.S.C. § 1332(a)(1). “It is, to say the least, well settled that federal diversity jurisdiction requires complete diversity, so that no defendant is a citizen of the same state as any plaintiff.” *Walker v. Norwest Corp.*, 108 F.3d 158, 162 (8th Cir.1997). In this case, plaintiff

lives in Missouri and the City of St. Louis is in Missouri. Therefore, diversity jurisdiction does not exist.

Before dismissing this case, the Court will allow plaintiff to show cause why the complaint should not be dismissed. If plaintiff wishes, she may file an amended complaint with proper allegations of federal jurisdiction.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff must show cause, no later than twenty-one (21) days from the date of this Order, why this case should not be dismissed for lack of jurisdiction.

Dated this 16th day of October, 2015.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE